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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,003	12/14/2001	Thomas T. Hardt	COMP:0253/VAN P00-3346	2407

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Intellectual Property Administration
Legal Department, M/S 5
P.O. Box 272400
Ft. Collins, CO 80527-2700

EXAMINER

FLANDRO, RYAN M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 04/22/2004

Restarted

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,003

Applicant(s)

HARDT, THOMAS T.

Examiner

Ryan M Flandro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003 and 28 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 16-18 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaban (US 5,738,475).
 - a. Claim 16. Chaban discloses a body 120; a head 128 disposed at one end of the body 120, the head 128 adapted to be secured to the first member 88; a deformable retention member 132 disposed at a generally opposite end of the body 120 from the head 128; and a stop 124 positioned at a predetermined distance from the head 128 to permit control of the deformation of the deformable retention member 132. (See generally 6 and 7; column 7 lines 21-65).
 - b. Claim 17. Chaban further shows that the deformable retention member 132 comprises a generally circular lip (figure 7).
 - c. Claim 18. Chaban also shows that the stop 124 is disposed within the generally circular lip 132 (figure 7).
3. Claims 16-18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambertz (US 4,177,545).
 - a. Claim 16. Lambertz shows and discloses a device to pivotally secure a first member 13 to a second member 14 comprising a body 2; a head 15,16,18 disposed at one end of

the body 2, the head 15,16,18 adapted to be secured to the first member 13; a deformable retention member 12 disposed at a generally opposite end of the body 2 from the head 15,16,18; and a stop (see inner end of recess of member 12) positioned at a predetermined distance from the head 15,16,18 to permit control of the deformation of the deformable retention member 12. (See figures 3-6; columns 1-3).

- b. Claim 17. Lambertz further shows that the deformable retention member 12 comprises a generally circular lip (figures 3-5).
- c. Claim 18. Lambertz also shows that the stop (see inner end of recess of member 12) is disposed within the generally circular lip 12 (figures 3-5).
- d. Claim 21. Lambertz further shows that the deformable retention member 12 is sized to extend through the second member 14 (see figures 3-6).
- e. Claim 22. Lambertz also shows that the stop (see inner end of recess of member 12) is disposed such that the deformable retention member 12 does not deform to prevent movement of the first member 13 relative to the second member 14 (see figures 3-6; columns 1-3).
- f. Claim 23. Lambertz shows and discloses a device 2 to pivotally secure a first member 13 to a second member 14 comprising: a body 2; a head 15,16,18 disposed at one end of the body 2; a deformable retention member 12 disposed at a generally opposite end of the body 2 from the head 15,16,18; and a stop (see inner end of recess of member 12) positioned approximately flush with an outer edge of the second member 14 to prevent the deformable retention member 12 from becoming fixedly secured to the second member 14 (see figures 3-6 and columns 1-3).

Response to Arguments

4. Applicant's arguments, see applicant's amendment filed 28 January 2004, with respect to the rejection(s) of claim(s) 1-15, 19 and 20 under 35 USC §103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

5. With regard to Applicant's arguments regarding the rejection of claims 16-18 under §102(b), the Examiner respectfully disagrees. Because the added language (underlined above) *does not positively recite* that the head is secured to the first member, only that it is *adapted* to do so, Chaban is believed to meet the positively recited limitations of the claim. The rejection is maintained as set forth above.

Allowable Subject Matter

6. Claims 1-15, 19 and 20 are allowed for the reasons set forth in Applicant's arguments submitted 14 October 2003. That is, the combination of Chaban and Whiteside was improper and could not result in the invention as claimed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to pivot rivet systems:

U.S. Patent 4,177,545 to Lambertz (see figures 3-6; columns 1-3)

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952.


The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF



John Cottingham
Primary Patent Examiner
Technology Center 3670